

collins international service company

P.O. Box 10462 Dallas, Texas 75207 Phone: (214) 996-5274

March 1985

No. 4504A

[Redacted]

STAT

FBIS
1200 Wilson Blvd.
Arlington, VA 22209

Subject: INTERNET

Dear Harry:

Attached are some excerpts from the 1 March 1985 International Communications News re NTIA (Commerce), Rep. Markey (MA), and Rep. Dingell (MI), activities relative to FCC/INTELSAT matters pertinent to INTERNET.

I believe the NTIA action is particularly significant. Lets hope FCC reacts with something positive.

Regards,

COLLINS INTERNATIONAL SERVICE COMPANY

Al

[Redacted]

Manager

SATCOM Networks Department

DDVC/pas

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International Communications News

MARKEY REINTRODUCES BILL AIMED AT SHARPENING INTERNATIONAL COMPETITION

Rep. Edward Markey, D-Mass., last week reintroduced legislation to increase competition in international telecommunications markets. The bill, H.R. 1175, is similar to legislation introduced by Markey last year in that it would require Comsat to divest its competitive ventures from its Intelsat/Inmarsat activities and it would gradually deregulate international carriers.

Under the bill, the Federal Communications Commission would establish a list of dominant regulated international communications carriers considered to have "market power". Within six months of enactment of the bill, the FCC would be required to review the list of dominant carriers and decide which carriers should become unregulated. The FCC would review the list at least once every two years.

The bill also requires all international carriers to provide nondiscriminatory interconnection of its regulated services or facilities to any other carrier, any government telecommunications system or customer premises equipment. When a carrier offers international and domestic services, it would be treated as two separate carriers for interconnection purposes.

The bill also would enhance Executive Branch and FCC authority over and monitoring of Comsat's participation in Inmarsat and Intelsat activities, and require Comsat to divest all non Intelsat/Inmarsat activities within 18 months of passage of the legislation.

Finally, the bill sets up a Satellite Communications Study Commission, which would: review the existing system of U.S. participation in Intelsat, prepare a written report recommending changes in the present structure, and hold public hearings to accomplish its tasks. The commission would be made up of representatives of the Depts. of State and Commerce, the FCC and a public member to represent consumers of international satellite services. The bill specifically requires Executive Branch cooperation and assistance to aid the new commission.

HOUSE DEMOCRATS UNHAPPY WITH VAGUENESS IN FCC'S ALTERNATIVE SYSTEMS RULEMAKING

Congressional interest in the Federal Communications Commission's rulemaking on whether to authorize alternative U.S. international satellite systems is running high. In addition to a hearing before the House Foreign Affairs subcommittee on international operations (see story this issue), Rep. John Dingell, D-Mich., wrote FCC Chairman Mark Fowler to raise a number of questions that he maintained were left unanswered by the Notice of Inquiry and Proposed Rulemaking (CC 84-12990).

Separately, Rep. Al Swift, D-Ore., was expected to send a letter late this week with about a dozen co-sponsors in which an aide to Swift said the congressman would argue for a redrafted Notice of Proposed Rulemaking. Dingell was undecided about signing on to Swift's letter. Proponents of alternative systems were quick to charge that Swift's proposed action was dilatory. Sen. Barry Goldwater, R-Ariz., and chairman of the Senate subcommittee on communications, wrote the commission Feb. 7 to say that he could accept the delay in the comment period on alternative systems, but he didn't want the proceeding delayed beyond June. 1.

Dingell's concerns are that the FCC notice discusses "important policy issues left unresolved by the executive branch recommendation" but does not amplify the commission position. "Has the commission, in fact, adopted the broad executive branch recommendation as its proposed rule? If not, does the commission intend to propose a rule setting forth its own policy formulation and will the public be afforded an opportunity to comment on the resolution of important policy issues embodied in the commission's proposal?" Dingell queried.

Dingell added that it was unclear from the notice whether the FCC will or can resolve the issue of Intelsat pricing flexibility in the rulemaking.

"We're not interested in extending the rulemaking per se," an aide to Swift stoutly maintained. "What we're suggesting is that it's difficult for anyone interested in these issues to comment intelligently on a proposal that isn't there," he said, adding that "the FCC's NOI/NPRM doesn't even have the broadest outlines of a general rule...it's an excellent NOI but it doesn't propose anything."

An aide to Dingell was in general agreement. "It's a truth-in-advertising question," he said. "The FCC put out an NPRM, but there is none. Essentially, it gives too much latitude to the commission -- they could renege on the executive branch proposal," he explained.

On yet another front, the Congressional Black Caucus was expected to write FCC Chairman Mark Fowler late this week to complain that alternative satellite systems threaten Intelsat service to Third World nations at affordable rates. The theme is one that has been proffered by Intelsat Director-General Richard Colino in past speeches.

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International Communications News

March 1, 1985

NTIA ASSERTS THAT DIRECT ACCESS TO INTELSAT SPACE SEGMENT WILL BENEFIT INTELSAT

Contending that Intelsat will be helped, the National Telecommunications and Information Administration, Feb. 21 petitioned the Federal Communications Commission to investigate "competitive access" by carriers and users to the Intelsat space segment. The FCC has considered competitive access before and rejected it in March 1984 (CC 82-548). But the NTIA argued that new developments require a renewed examination of the issue.

According to NTIA, competitive access means "direct or cost-based access proposals by which carriers and users will have the option to obtain Intelsat space segment facilities for the provision of customized services on terms equivalent to the access obtained by Comsat". Competitive access should be allowed, NTIA argued, in order to correct distortions in the marketplace that would ultimately work to Intelsat's detriment.

Specifically, since carriers are allowed to make capital investments in submarine cables but not in satellites, they have an artificial market incentive to load cables. NTIA pointed to several pending applications for submarine fiber optic cables, the pending proposals for private international satellites, the plethora of domestic satellites now being used for transborder services, and the growth in regional satellite systems and concluded that unless direct access is allowed, the Intelsat space segment will never be priced at cost and thus not used as efficiently as possible.

NTIA added that the market distortions that now exist due to the Comsat bottleneck are likely to worsen if and when the U.S. withdraws from regulation of facilities loading (satellite vs. cable). As NTIA recalled, "when the commission lifted the 'carrier's carrier' restriction on Comsat and authorized it to enter the retail market, the commission noted that its detailed regulatory involvement in carriers' facilities loading determinations and formulas might no longer be required."

The FCC's Authorized User II decision (CC 80-170) provided relief for Comsat from changes in facilities loading policies, NTIA said, but offers no such help for Intelsat. The solution is direct access, which should lead to "lower cost access to Intelsat and greater effective marketing of Intelsat facilities."

NTIA suggested that one competitive access scenario would allow users and carriers to invest in the space segment through capital investment in Comsat's share of the Intelsat system. The users and carriers would then pay an appropriate share of Intelsat's operating and maintenance costs charged to Comsat, plus whatever legitimate costs Comsat must incur in carrying out its signatory responsibilities under the Intelsat Agreement and the Communications Satellite Act of 1962.

In order to avoid the possibility that cost savings might not be passed along to the consumer, the commission should also consider affording end users the option to obtain access to Intelsat facilities on a competitive basis for customized services, NTIA added.

In both cases, however, NTIA maintained that "to the extent the costs and charges imposed by the established carriers (or, by Comsat) are truly justified and unavoidable, and to the extent that there are not service, cost control, or other bases for doing so, users (and carriers) would have little incentive to exercise their competitive access option."

Opening up the Intelsat space segment to others than Comsat should not result in "significant" harm to Comsat, said NTIA, because the direct access contemplated by NTIA is limited to only a small portion of Comsat's current space segment traffic. In addition, "we would expect Comsat to respond to competitive challenges as aggressively in the marketplace as they have in the regulatory arena," NTIA quipped.

NTIA conceded that there may be legal issues requiring attention prior to a final determination -- in particular, whether users are precluded by the Satellite Act from making an investment in Comsat's ownership of Intelsat's facilities. "Our preliminary view is that it does not (preclude such an investment)," NTIA said. "We believe...that the commission's regulatory authority over Comsat is broad enough, and the Act flexible enough so that the commission may act," NTIA explained.

Noted NTIA: "The Department of Defense, the largest single user of international telecommunications services, endorses this petition."